

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Khammesherma Smith,)	
)	
Plaintiff,)	C.A. No. 6:22-3176-HMH-KFM
)	
vs.)	OPINION & ORDER
)	
Director Brian,)	
)	
Defendant.)	

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Kevin F. McDonald made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina.¹ Plaintiff Khammesherma Smith (“Smith”), a state prisoner proceeding pro se, filed this action alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. In his Report and Recommendation filed on December 5, 2022, Magistrate Judge McDonald recommended that Smith’s motion to proceed in forma pauperis be denied, and if denied that Smith be provided twenty-one (21) days to pay the filing fee or the case will be dismissed. (R&R, generally, ECF No. 15.)

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

Smith timely filed objections to the Report and Recommendation, and a motion for relief, that the court construes as objections to the Report and Recommendation.² (Objs., generally, ECF Nos. 22, 23.) Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that Smith's objections are non-specific, unrelated to the dispositive portions of the magistrate judge's Report and Recommendation, or merely restate his claims. Therefore, after a thorough review of the magistrate judge's Report and the record in this case, the court adopts Magistrate Judge McDonald's Report and Recommendation and incorporates it herein.

It is therefore

ORDERED that Smith's motion to proceed in forma pauperis, docket number 9, is denied. It is further

² Having not received objections, the court entered an order adopting the Report and Recommendation on January 4, 2023. (Order, ECF No. 20.) The court received objections on January 5, 2023. Therefore, the court's January 4, 2023 order is vacated.

ORDERED that Smith is provided twenty-one (21) days to pay the filing fee or the case will be dismissed.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
January 6, 2023

NOTICE OF RIGHT TO APPEAL

The Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.